

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
October 26, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Forman, Conze, Kenny and Bigelow

STAFF ATTENDING: Ginsberg, Keating
COURT RECORDER: Gayle Beler

A meeting was called to order at 8:00 p.m. in Room 206 of the Darien Town Hall. Chairman Damanti read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #186-B, Flood Damage Prevention Application #198-B, Denis & Jennifer Manelski, 11 Pratt Island. Proposing to raze the existing residence, garage and greenhouse, and construct a new residence on the existing foundation with an addition, a garage, and a swimming pool, and perform related site development activities within regulated areas. The subject property is located on the south side of Pratt Island approximately 1,150 feet south of the intersection of Nearwater Lane and Baywater Drive, and is shown on Assessor's Map #55, as Lots #121 & #122 in the R-1 Zone.

Director of Planning Jeremy Ginsberg explained that Mr. Manelski still has not obtained the required variance from the Zoning Board of Appeals. He said that the Planning & Zoning Commission Public Hearing will need to be closed in the near future unless the applicant is willing to grant an extension. The Commission members turned to Attorney Robert Maslan who represents Mr. Manelski and asked if an extension was possible. Attorney Maslan verbally granted an extension and said he would confirm it in writing. The following motion was made: that the Planning & Zoning Commission continue the Public Hearing on this matter on November 9, 2004. The motion was made by Mr. Spain, seconded by Mr. Bigelow and unanimously approved.

Chairman Damanti read the following agenda item:

Continuation of Public Hearing regarding Land Filling & Regrading Application #128, Robert & Catherine Barrett, 26 Great Hill Road. Proposing to fill and regrade the back yard and perform related site development activities. Subject property is located on the south side of Great Hill Road, approximately 525 feet north of its intersection with Tokeneke Road, and is shown on Assessor's Map #36 as Lot #13, R-1/2 Zone.

Attorney Joseph Rucci represented the applicants and explained that a letter had been sent to all of the neighboring property owners before the project involving the addition to the residence got started. He said that the storm water runoff from other properties is funneled into the low portion of the Barrett property, which is approximately at elevation 86. He said that the upper portion of the Barrett property is at approximately elevation 100. The plan is to fill and regrade to make a more

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flat backyard at or about elevation 100 but to leave the southerly portion of the Barrett property at elevation 86.

The Commission members reviewed the letter from Mr. & Mrs. Burke, who live on Tokeneke Road and whose property is just south and just below the Barrett property. The Burkes are not opposed to the filling and regrading but want assurances that the water will be properly managed. They also note that it will be necessary to alleviate the sheet flow concentration of water from the Barrett property onto the Burke property.

A letter dated October 19, 2004 from Darren Oustafine of the Darien Public Works Department expresses a number of concerns regarding the application. The plans were revised by the Project Engineer John Martucci to address those concerns. Mr. Oustafine wrote a second memorandum dated October 26, 2004 indicating that he is satisfied that the issues have been addressed.

Commission members noted that some fill has already been placed more than 25 feet away from the addition to the house and that considerably more fill must be brought into the site to accomplish the plan proposed by the applicants. The drainage plan has been designed by Professional Engineer John Martucci to direct the water into a series of galleries to be installed within the fill and into a trench drain to be located near the bottom of the fill.

At the previous public hearing, the lack of sediment and erosion controls had been discussed. The day after that meeting, the silt fence was installed around the perimeter of the fill. Photographs of the existing site conditions were submitted for review. They illustrate the extent of the filling and regrading that has already taken place and the existing screening located between the Barrett property and the adjacent Joyce property to the east. According to Attorney Rucci, approximately 300 cubic yards of fill have been placed in the back yard already and another 400 cubic yards of fill material will be needed to complete the proposed regrading.

Jeff McDougal of William Seymour & Associates Land Surveyors, said that the concern of the Burkes is the amount of storm water runoff that could be directed toward their property. He said that the regrading will actually slow down the flow of surface water because it will create a larger, flatter area. The new flat backyard will be well vegetated with grass and the proposed drainage system will provide for infiltration of runoff water into a series of galleries. He reviewed with the Commission a series of drawings, including cross-section drawings, showing the installation of 10 infiltrator type galleries in the proposed fill.

John Martucci, Professional Engineer, said that the calculations for storm water runoff took into account the pre-construction drainage condition and the after development impervious areas and then the required volume of the infiltrators was calculated. He said that there will still be storm runoff water that flows toward the Burke property, but it will be less than in the past.

Commission member Kenny said that the existing bottom of the slope in the Barrett back yard is 35 feet +/- from the Burke property at 204 Tokeneke Road (directly to the south). The proposed bottom of slope is only a few feet from their shared property line. He asked how well the infiltrators and catch basin system will work to prevent drainage problems on the downhill Burke property? He also asked what maintenance will be necessary? Mr. Martucci replied that the infiltrators are virtually maintenance free and that the only thing necessary to keep them functioning

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is to regularly clean the gutters of the house. He also said that the perimeter drain or trench drain, proposed at the toe of the slope, needs to be kept free of debris on the surface.

Jeffrey McDougal said that the slope of the land currently concentrates flow onto the Burke property and that the revised or proposed grading plan will create more of a sheet flow where the water will be more spread out rather than concentrated.

Mr. Spain asked if the fill material will absorb water or will it channel the water from the fill and infiltrators toward the Burke property. Mr. Martucci said that the fill will need to be carefully placed on the site to avoid excessive compaction and that his plans can specify the use of granular, bank run gravel rather than just ordinary clean fill. The bank run gravel will absorb more water than other fill material.

Mr. Spain said that even if the design is approved and installed, it still might be a drainage problem for the Burkes. He asked if the applicants are committed to addressing potential drainage problems and remediating drainage problems as they occur. Mr. Barrett said that they have had numerous conversations with the Burkes and have assured them that they, the Barretts (the applicants), will address any drainage problems that might occur.

Attorney Rucci submitted a letter of support from the neighbor across the street.

Mrs. Joyce, who lives to the east of the Barrett property, said that water from her property flows away from her garage and toward the Barrett property. She feared that any more fill being brought into the Barrett property would alter that drainage condition and the water would no longer be allowed to flow as it does today. She also said that the fill would displace the storage capacity of the lower portion of the Barrett property. Mr. Martucci said that the infiltrators were based on calculations for the new impervious area and do not take into account any changes that might occur on the Joyce property. The design of the fill and regrading is to leave the existing drainage pattern between the Joyce and the Barrett properties unchanged. He said that the Joyce property will still be higher than the filled Barrett property and that water will continue to flow from the Joyce property to the Barrett property and down hill toward the Burke property. Mr. Joyce said that during the construction, it would be important to assure that the Barrett property stay lower than his property. He said that the addition to the house is just 15 feet from the side property line and the trees along the property line could be damaged by the movement of heavy dump trucks through that area. Chip Dunn, general contractor for the Barretts, said that he would be glad to put up tree protection to assure that none of the trucks being used for the construction work or the filling and regrading would affect the vegetation along the Joyce boundary line. Jeff McDougal said that even a large dump truck will fit between the Joyce boundary line and the Barretts' addition. Mr. Joyce said that the proposed regrading is an extreme amount of fill and will result in a very steep slope on the southern portion of the Barrett property.

Mr. Barrett said that the average increase in grade will be about 2½ feet when viewed from the Joyce property. He said that they will be installing trees along the Joyce property line to provide more screening and privacy for their new backyard.

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There being no further comments, the following motion was made: that the Commission close the public hearing regarding this matter. The motion was made by Mr. Spain, seconded by Mr. Kenny, and unanimously approved.

Chairman Damanti read the following agenda item:

Continuation of Public Hearing regarding Business Site Plan #96-H/Special Permit, Frank A. Miller, 1297-1335 Boston Post Road. Proposing to raze existing veterinary clinic and construct a new parking area and perform related site development activities. Subject property is located on the northwest side of Boston Post Road approximately 485 feet northeast of its intersection with Thorndal Circle, and is shown on Assessor's Map #39 as Lots #18A and #19, SB Zone.

John Martucci, Professional Engineer, said that the plan for the revisions to the Miller Automobile facility are contingent upon the demolition of the existing veterinary clinic which is located immediately adjacent to the Exit 11 off ramp from I-95. Once that building is removed, they will create an additional 36 paved parking spaces to be used by the Miller Automobile dealership. Nine more parking spaces will be created out of grass pavers so that a storm water runoff can soak directly into that area. The plans were previously approved by the Environmental Protection Commission and the Connecticut Department of Transportation. Revisions to the driveway layout have been designed to ensure that when the catch basins in the Boston Post Road are not sufficient to handle a large influx of water due to a heavy downpour of rain, the back water will not flow toward the car dealership building. The revised driveway entrance will be at approximately a 45 degree angle to the street and is at a slightly higher elevation than the existing driveway. Plans of the revised driveway design were reviewed and discussed.

There were no questions or comments from the Commission members or public. The following motion was made: that the Commission close the public hearing regarding this matter. The motion was made by Mr. Conze, seconded by Mrs. Forman and unanimously approved,

Chairman Damanti read the following agenda item:

Continuation of Public Hearing regarding Special Permit Application #15-J, Wee Burn Country Club, 410 Hollow Tree Ridge Road. Proposing to demolish and replace current maintenance structures and perform related site development activities. Subject property is located on the north side of Hollow Tree Ridge Road, approximately 100 feet north of its intersection with Hanson Road, and is shown on Tax Assessor's Map #7 as Lot #66, R-2 Zone.

Attorney Robert Maslan represented the Wee Burn Country Club and explained that Architectural Review Board approval had been obtained regarding the proposed structures. A permit has also been granted by the Environmental Protection Commission because some of the work is in close proximity to inland wetlands and watercourses. Attorney Maslan submitted bound sets of prior approvals and photographs of the site and other related materials. He explained that the storage requirements for pesticides and chemicals used on the golf course have been updated by Federal and State Law, and the Club must now comply with those mandates. He submitted a packet of information regarding those requirements.

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Attorney Maslan explained that the Wee Burn Country Club is approximately 206 acres in size and the proposed work is in the interior of the site and not visible from off-site locations. He said storm water runoff from the new buildings will be handled on-site. The plan involves the demolition of the old storage buildings and construction of new storage and maintenance buildings that are state of the art and comply with all applicable regulations and requirements. As part of this work, they will need to relocate a drainage trench and do some filling of already disturbed wetlands areas. They are creating a much larger wetland area as mitigation to the work taking place in and adjacent to the wetlands. Those plans have already been approved by the Environmental Protection Commission.

Attorney Maslan said that the employee residence that was approved and built several years ago is in the same general vicinity as the maintenance buildings, but will not be affected by the proposed construction activity.

Storm drainage plans for the proposed work were discussed. The watershed area is approximately 104 acres and leaves the property via two 42-inch diameter pipes. The amount of runoff leaving the site will not be changed by the proposed work. Runoff from the catch basins in and around the maintenance buildings will be diverted into oil and debris collectors and then, the clean water will be discharged into the wetlands on the site. Roof runoff will be discharged directly toward the wetlands. There will be a slight change in the amount of impervious area but there will be no measurable change in the amount of runoff or discharge from the site. All catch basins will have two-foot deep sumps to collect sand and sediment and other debris. Oil and grid separators will be installed in some catch basins to treat and clean the first flush of runoff water. The sediments captured in the separators and sumps will need to be cleaned out one or two times each year.

Judy Slayback, of Environmental Land Solutions, said that she has worked with the Project Engineer to include natural cleansing of the storm water runoff, to improve water quality before it is discharged into the wetlands and watercourses. The Club is also committed to cleaning up the pond edge of all debris and extraneous material and will be creating new wetland areas at a ratio of approximately 4 to 1 for each square foot of wetland area that is being filled. Approximately \$30,000 will be invested in the planting of wetland vegetation in and around the new wetland area. Clean-up of the pond will take place in the very near future. Some clean-up activity has already been started (after it was authorized by the Environmental Protection Commission). The mitigation planting will probably be done in 2005 or 2006.

Attorney Maslan said that there will be no change in the number of residents and no change in the Club membership or activity levels. All work that is part of the Environmental Protection Commission Permit will be completed prior to the Certificate of Occupancy/Certificate of Use of the buildings.

Ralph LaRoc explained that he specializes in structures at golf courses and has been hired by the Club to be involved in this project. They will be taking down the old storage structures and the old soil storage bins. They will be constructing a new 15,000 sq. ft. maintenance building, which will give them space to store and clean their equipment within the building. A new 2,400 sq. ft. fertilizer and chemical storage building will be constructed and a 1,700 sq. ft. soil storage bin type building will also be constructed. He said that all mixing of chemicals will take place within the building as required by law and all washing of equipment will also take place within the building.

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The wash water will be sent to an oil grit separator and then a sanitary sewer. A covered fueling station will be created so that there will be no likelihood of minor fuel spills being discharged into the wetlands and watercourses. The catch basins from the fueling station area will be directed toward an oil grid separator and then into the sanitary sewer system. He said that there will be approximately 19,000 square feet of building within the maintenance area and that this will provide for the long-term needs of the Club. The fuel storage facilities will be under a canopy and not near the fertilizer storage building. Delivery of chemicals will take place within the building, that will included 12-foot tall ceilings and 10 foot high doors to accommodate small trucks, vans and vehicles for such deliveries. Some very large trucks delivering pallets of fertilizer will not fit into the building but that off-loading operation will allow the delivery material to be brought directly into the building. Liquid chemicals are generally delivered in 5 gallon buckets or drums that are especially designed to accommodate such concentrated materials. They will be off loaded in the building to avoid any potential contamination of the wetlands and watercourses.

Kimberly Clark Guerrero explained that her firm has been contracted to remove the storage tanks and contaminated soil from the existing maintenance area. The tanks have been removed and some contaminated material has been removed and hauled by truck to off-site disposal areas. Approximately 400 to 500 cubic yards of material still need to be removed. They will continue to work with the Connecticut Department of Environmental Protection to finalize the clean-up. They will send a final report from the Engineer to the DEP and will also send a copy to the Town. They would like to complete the clean-up as soon as possible and therefore, they asked that the Planning & Zoning Commission grant the approval as soon as possible so that the existing buildings can be removed and the remaining contaminated soils in those areas can be removed as well. She explained that when the clean-up is underway, they will test the ground surrounding the clean-up area to verify that everything has been completely cleaned. She explained that dense soils have a low permeability of chemical contaminants spreading. This reduces the speed and ease with which the chemicals can contaminate other areas and therefore, limits the contaminated area.

Attorney Robert Maslan said that they will provide copies to the Commission of the DEP reports and other correspondence regarding the clean-up of the contamination. He said that the applicant is anxious to get the approvals as soon as possible so that the site clean-up can be completed.

Attorney Maslan said that the existing paddle tennis courts will be relocated in accordance with the previously approved site plan and that if work is started soon, much of it will be completed by late Spring (and the start of the new golf season).

There were no comments from the public regarding the application. There were no further questions or comments from the Commission members. The following motion was made: that the Commission close the public hearing regarding this matter. The motion was made by Mrs. Forman and seconded by Mr. Conze, and unanimously approved.

Chairman Damanti read the following agenda item:

Special Permit Application #221-E, Nextel Communications, Tower Drive. Proposing to install wireless telecommunications antennas on an existing water tank and to install an equipment shelter/storage building at the base of the tower and perform related site development activities. The

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subject property is located on the south side of Tower Drive, approximately 200 feet east of its intersection with Mansfield Avenue, and is shown on Assessor's Map #1 as Lot #136, in the R-2 Zone.

Attorney Christopher Fisher represented Nextel and explained that virtually the same application was approved by the Commission in 2001. The only difference between the previous approval and the newer application is that more landscaping will be installed to surround the improvements and 120 ft. long fence will be installed on the west side of the site to provide more screening. Unlike the other cellular carriers that have installed antennae within the tower and been able to put their equipment within the base of the tower structure, Nextel must construct a separate building to house its equipment. The building will measure 12' x 20' and will be 10 feet tall. Attorney Fisher said that the panel antennas to be installed at the top of the tower will be a stealth material and will be painted to match the existing tower structure so that they will not be noticeable. They will likely use the same contractors that have done work for other carriers in the tower and he understands that the painter for Sprint has been having trouble matching the tower texture and color, but they will work to resolve that concern. Attorney Fisher said that Nextel will try to achieve the same high standards as the other carriers but cannot promise to match the tower exactly. They also cannot repaint the entire tower as part of their project.

The Project Engineer for Nextel explained that there are no changes to the equipment from the 2001 approval. Attorney Fisher said that there has been a change of ownership since the 2001 approval. The tower is now owned by Aquarion Water Company rather than Connecticut American Water Company. Attorney Fisher noted that there will be a small, global positioning satellite (GPS) antenna on the east side of the tank and this is required for emergency response purposes. He said that Nextel will install the landscaping and the Water Company will be responsible for the maintenance of the entire facility.

Mark Fois of Aquarion Water Company responded to Commission members questions about the maintenance and the upkeep of the site and said that it will be the Water Company's responsibility to maintain the fences, landscaping and other aspects of the site. He said that the Water Company recognizes their obligation and will work with the staff and neighbors to keep the property neat and clean.

Commission member Bigelow said it is wonderful to maximize the use of the existing tower structure rather than having to build a new tower, but he was concerned that the equipment can no longer be placed in the base of the tower structure, and now requires another separate building. He said that it is possible that the site use is already maximized and that any separate building should not be permitted.

Mr. Fois said that one concern about adding landscaping is to make sure that the Water Company can get their maintenance equipment into the site whenever it is needed. Another concern is that site security is available and appropriate. In response to a question, he said that the Water Company installed screening hedge into the fence. The September letter from Mr. Fois expressed 7 items of concern. Commission members wanted to know if they had been addressed. Mr. Fois said that they had been addressed and that the construction set of drawings will address these technical issues that were raised in the letter, but the tower and proposed new building will still look the same. In response to questions, David Niven, representing the applicant, said that the exterior of the proposed

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building will be a concrete aggregate material. He also said that they will process the construction in coordination with the other operations on the site to minimize the impact to the neighborhood.

Attorney Chris Fisher submitted photographs of the existing conditions and simulated photographs of how it will look with the antennas in place. He said that the proposed building will be surrounded by a wooden fence and that only 2 to 4 feet of building will show above the fence. Then there will be landscaping around the outside of the fence to soften the view of the developed area. He said that the construction of the building and installation of the landscaping will take 4 to 6 weeks and will be coordinated with the work being done by the Verizon contractor. Mr. Fois said that as a representative of the Water Company, he will coordinate the work schedules and give ground rules to the contractors about working in the neighborhood. He said that they have learned many lessons from the previous work operations that have taken place there.

The October 21, 2004 letter from the neighbors was discussed. Nancy Hargraves of 5 Tower Drive had written three letters of concern. She also submitted photographs of the site conditions. She spoke in opposition to the application and said that the project represents a new phase of development of the tower structure and the fact that they need to construct an additional building indicates that there really is no more space available within the tower to have the antenna and required support facilities. She said that the expansion of the tower antenna facilities now requires an industrial outbuilding type of structure and she said she is not in favor of the stockade fence proposed to surround that structure. She said that much of the vegetation on the site was removed since the application map was prepared in 2001 and now it is possible to see from Tower Drive straight through the site to the house that fronts on Mansfield Avenue. Mr. Conze said that maintenance and upkeep of the site is an important matter and that she should call the Water Company regarding such issues.

Mr. Fisher said that many items noted in Mrs. Hargraves' letters are problems caused by the construction contractors used by the other cell phone carriers. He noted that the new plan does add more vegetation, specifically 10 foot high evergreen trees that will help to screen the view of the stockade fence and the support building. He said that there will be pleased to work with the neighbors to site specifically locate the trees to the greatest benefit of the neighbors. He noted that this applicant is the fourth carrier seeking approval in the tower and that there is only one other potential carrier and that is T-Mobile.

In response to a question about installing the storage shed underground, Mr. Fisher said that the option had not been seriously considered because it might conflict with the underground pipes and other utilities on the site. He noted that it is only 240 square feet in size, and will be well screened. He said that it is approximately the size of a small garage or outbuilding. Mr. Spain noted that there had been nothing submitted about the feasibility of constructing the building partially or completely in the ground.

There was some discussion regarding the lack of a landscaping plan for the tower structure itself. Commission members questioned whether the Water Company could cut trees without having to replace them. Mark Fois of Aquarion Water Company said that the trees were removed by the previous owner (Connecticut American Water Company) and that Aquarion has no plans to remove any additional trees, but will remove any dangerous limbs and dangerous trees if they develop. He noted that they do need to keep the site safe and protected.

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Mr. Bigelow said that there should be a detailed landscaping plan of the water tower site regardless of whether there are cell phone carrier facilities located at the site.

Mr. Kenny asked questions about the capacity of the shed and whether it would be a large enough building to accommodate all of the necessary equipment. The applicant's representative indicated that the shed structure has been designed to be suitable for the current equipment and any foreseeable growth for at least the next 10 years. He noted that technology will likely improve and probably the support equipment will actually get smaller than it is today. He said that the building will be approximately 50% full at the start of the operation. This leaves them some room to expand if necessary without having to construct a new building. He said it would be hard to know when it might become full. Mr. Fisher said that the building has been designed with some expansion capability without having to come back every few years to the Commission but is fairly small and is certainly not overly designed.

There being no further comments or questions from the public or Commission members. The following motion is made: that the Commission close the public hearing regarding this matter. The motion was made by Mr. Conze, seconded by Mr. Spain and unanimously approved.

Chairman Damanti read the following agenda item:

Special Permit Application #237, Land Filling & Regrading Application #132, Joseph & Maura Collins, 163 Long Neck Point Road. Proposing to install a tennis court and perform related site development activities. The subject property is located on the east side of Long Neck Point Road, approximately 200 feet south of its intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #1A in the R-1 Zone.

Attorney Joseph Rucci represented the applicant and explained that the 1.266 acre parcel is located in an R-1 Zone. A residence was located on this property but was demolished earlier this year. A new house will be built in the very near future. They are proposing to construct a tennis court and a Special Permit is required for a tennis court. There was a former tennis court on the site and the new tennis court will be located in the same general vicinity. He said that the site is surrounded by trees and the tennis court will not be bothersome to the neighbors.

Attorney Rucci said that the proposed tennis court complies with all of the setback regulations and it will be "Har Tru" surface that will absorb more water than a standard paved surface. There will be some minor regrading necessary in order to make the tennis court area flat enough. A letter from Todd Ritchie of Stearns & Wheeler Engineering was reviewed and discussed. Mr. Ritchie indicates that the proposed tennis court will not significantly increase runoff and that a perimeter drain and infiltrator system will collect the runoff from the tennis court and dissipate it into the ground. Approximately 95 cubic yards of fill will be needed to change the grade in the location of the old driveway to accommodate the tennis court.

In response to a question from Commission members, Mr. Rucci indicated that the proposed tennis court will not have any exterior lights. There were several letters from neighbors, but none of the neighbors were opposed to the application. Photographs of the site were submitted and the letter of October 26, 2004 from Todd Ritchie was submitted as well.

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There were no further comments or questions from Commission members or the public. The following motion was made: that the Commission close the public hearing regarding this application. The motion was made by Mr. Conze, seconded by Mr. Spain and unanimously approved.

Chairman Damanti read the following agenda item:

Amendment of Business Site Plan #200-D/Special Permit, V&M, LLC, d/b/a Pizza, Pasta & Brew, 20 Center Street aka 33 Tokeneke Road. Proposing to remove an existing planter wall and construct a new wall, and to establish an outdoor seating area. The subject property is located between Center Street and Tokeneke Road, approximately 260 feet east of the intersection of Tokeneke Road and Boston Post Road and is shown on Assessor's Map #72 as Lot #45, CBD Zone.

Attorney Bruce Hill represented the applicant and was accompanied by Joseph Vento, one of the owners of the restaurant, and Rick Corbo, the project architect. Attorney Hill said that the plans to expand the terrace area on the Center Street side of the building had been reviewed and approved by the Architectural Review Board. He submitted photographs of the existing conditions. He explained that the expanded terrace would allow for the installation of three tables with a total of 12 new chairs. The relocated retaining wall would be made of brick material to match the existing brick. The surface of the new patio area would be flag stone. The expanded patio area will be created by relocating the retaining wall and reducing the depth of the planter area atop the retaining wall. The new retaining wall would go to the limit of the private property and to the edge of the town property. The new tables would be outside of the roof overhang area of the building. No awnings or umbrellas or covering of any sort is proposed over the tables. The tables would be serviced by the wait staff and therefore litter and debris at the tables will not be a problem.

There was a question regarding the possible need for a gate or limiting access to the area because liquor is served at the restaurant and the State Liquor Control Commission may require that a gate be provided. Rick Corbo, project architect, explained that they have worked on a design that includes sliding gates on both ends of the patio. The gates would be closed until someone opens the gate and then passes through the gate. The gates would automatically close. The gates would be made of black wrought iron material. The existing interior seating of 28 patrons will not be changed. New outdoor seating for 12 patrons would be added. Mr. Corbo said that there are two rest rooms inside the building.

In response to questions, Mr. Vento said that the hours of operation are from 11:00 a.m. until 11:00 p.m. The outdoor tables would be accessible during those same hours. Mr. Ginsberg said that in accordance with Business Site Plan/Special Permit 200-D, the maximum hours of operation are from 11:00 a.m. until midnight. Mr. Vento said that everyone is out of the restaurant by 11:00 p.m. because they stop serving earlier than that.

Dave Johnson of Back Street Restaurant said that he understands that the Liquor Control Commission will require that you enter the restaurant building first, before you enter the outdoor seating or patio area where liquor is to be served. He said that he is opposed to the increase in the number of seats available at the Pizza, Pasta & Brew Restaurant because it will only add to the parking problems that exist during peak usage times. He said that the stipulation of approval for the

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original redevelopment of the site were very clear that the use of the site was maximized and that was before the Pizza, Pasta & Brew Restaurant was approved. Mr. Johnson said that last summer the cleaning of the garbage room was a serious problem because it occurred while patrons of Back Street Restaurant were using the outside dining facilities previously approved at Back Street Restaurant. He said that those problems did not reoccur during the summer of 2004. He felt that the increase in the use of the patio area by placing 3 new tables and 12 new seats out there would be bad.

Cheryl Johnson, owner of Back Street Restaurant, said that the revised access to the outside patio would lead to problems for patio use at Back Street Restaurant. She said that the problems regarding the trash cleaning and other matters, only got corrected because many letters were written and phone calls were made.

Attorney Hill said that the problems experienced in 2003 seem to have been corrected many months ago and, if anything, outside dining at the Pizza, Pasta & Brew Restaurant will mean that the applicant will keep the garbage room cleaner because the garbage room access is visible from the proposed new terrace.

Joe Vento said that there is never a parking problem. People park in the municipal parking area, then walk across Center Street to the restaurants and enjoy themselves. At peak times, people must park in the far end of the municipal parking area, but they always seem willing to do that.

There being no further questions or comments from the Commission members or the public, the following motion was made: that the Commission close the public hearing regarding this matter. The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved.

There being no further business, the meeting was adjourned at 11:30 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning